

# Guardianship

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## Forms

The following forms are referenced in this file:

- 04-16 Permanency Planning-Legal and Psychosocial Considerations
- 04-16sp Permanency Planning-Legal and Psychosocial Considerations (Spanish)
- 04-17 Permanency Planning-Financial
- 04-17sp Permanency Planning-Financial (Spanish)
- 04-36 Visitation Plan
- 04-36sp Visitation Plan (Spanish)
- 04-253 Information About the Kin-GAP Program
- 04-253sp Information About the Kin-GAP Program (Spanish)
- [SOC 369](#) Agency-Relative Guardianship Disclosure
- [PUB 511](#) Finding a Competent Therapist, Tips for Adoptive and Guardianship Families

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## Definition

Guardianship is a legal status in which the parents' rights to exercise physical and legal control over a child are suspended and an appropriate individual (guardian) is appointed by the court to fulfill the parents' responsibilities. Guardianship is one of three permanent plans, which may be ordered by the Juvenile Court for a dependent child who cannot be reunified with their parent.

The Probate Court appoints guardians for **non-dependent** children.

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## Eligible guardian

A guardian can be a relative, non-relative or SCP who is over the age of 18, who has an interest in caring for the child.

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**Guardian Placement Factors**

The following guardian factors must be considered:

- Capability to meet the child's specific needs related to age and health
- Ability and commitment to provide and care for the child to age 18
- Understanding of the responsibilities and requirements of guardianship
- Willingness to include the child as an integral family member and take the child with them should they move
- Ability to handle all matters pertaining to the child without dependence on CWS/Juvenile Court.

WIC 366.26(d) states : "The assessment may also include the naming of a prospective successor guardian, if one is identified. In the event of the incapacity or death of the appointed guardian, the named successor guardian may be assessed and appointed pursuant to this section. The person preparing the assessment may be called and examined by any party to the proceeding."

Section 1514 of the Probate Code states that the child's parent may not be appointed as the child's guardian. Some exceptions may be made in the case of a custodial parent with a terminal condition and is to be determined by the Probate Court only.

Because of the permanent nature of the guardianship relationship, CWS expects the placement to be stable before the guardians enter into a long-term legal commitment to the child.

This table displays a brief comparison of relative vs. non-relative guardianships; it is not all-inclusive.

TOPIC	RELATIVE	NON-RELATIVE
Length of placement	Minimum of 6 months from the date the RFA was approved.	Minimum of 1 year.
Finances (refer to the Guardianship Placement file)	AFDC-FC discontinued and KinGAP established.	Eligible for AFDC-FC.
Placement	Must meet the RFA home approval requirements	Must meet the RFA home approval requirements prior to placement.
CWS Case Management	CWS case closes after the court grants the guardianship and terminates jurisdiction.	CWS case remains open even after the court grants the guardianship and terminates jurisdiction. These cases are commonly referred to as "money-only" or "aid only" cases. Child must be seen once every 6 months.

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**Eligible Children**

Any out-of-home dependent child is appropriate to be considered for Guardianship when reunification services have been terminated or are about to be terminated.

If the child's parent is a minor or an NMD, the SW will inform the parent that they have the right to consult with counsel before entering into any formal or informal agreement for legal guardianship of the child. The SW will document this as a contact in CWS/CMS and indicate if that they were informed of their right to counsel

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**Child Factors**

When selecting a potential guardian for a child, many factors must be taken into consideration, such as the child's:

- Age, gender, and cultural background
  - Ethnic and religious identification
  - how sibling relationship(s) will be impacted
  - Health and emotional status
  - Anticipated special needs such as medical and/or psychological care, special education, etc.
  - Child's Preference, if the child is age 12 or older.
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## SW and Guardian Responsibilities

This table describes SW and Prospective Guardian responsibilities.

Type of Prospective Guardian	SW Responsibilities	Prospective Guardian Responsibilities
<b>Relative</b>	<ul style="list-style-type: none"> <li>Provide the following to the relative prior to the relative's decision to become the child's guardian: <ul style="list-style-type: none"> <li>04-253 (Information About the Kin-GAP Program)</li> <li>04-16 (Permanency Planning-Legal and Psychosocial Considerations)</li> <li>04-17 (Permanency Planning-Financial).</li> <li>Provide Finding a Competent Therapist, Tips for Adoptive and Guardianship Families brochure</li> </ul> </li> <li>Advise the relative that after the guardianship is granted, dependency will terminate and CWS contact will cease.</li> </ul>	<ul style="list-style-type: none"> <li>On the SOC 369 Agency-Relative Guardianship Disclosure, indicate their choice of legal guardianship with Kin-GAP or another payment option.</li> </ul>
<b>Non-relative</b>	<ul style="list-style-type: none"> <li>Inform the prospective guardian that after the guardianship is granted, court jurisdiction will terminate and CWS contact will occur only once every 6 months (unless more frequent contact is warranted).</li> <li>Provide Finding a Competent Therapist, Tips for Adoptive and Guardianship Families brochure.</li> <li>At least once every 6 months: <ul style="list-style-type: none"> <li>See the child</li> <li>Update the case plan-see Case Plan section below..</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Comply with the case plan</li> </ul>
<b>Successor Guardian</b>	<ul style="list-style-type: none"> <li>If a successor guardian has been identified in the event of the incapacitation or death of the prospective guardian, the Guardianship Unit will assess the successor guardian.</li> </ul>	Comply with the case plan if a non-relative becomes guardian.

## Service Component/ case status

When a non-relative becomes a guardian and jurisdiction is terminated:

- the service component will be marked as PP, and

- the case status will be marked as voluntary.

### Case plan for non-relative guardian

All non-relative (money-only) cases must have a case plan.

The CANS (Child and adolescent Needs and Strengths) tool will be used to help guide the formation of the case plan. For more information see CANS Policy. If there are additional needs identified in the CANS, they will have their own services objective, planned client service, and case management services as appropriate i.e. counseling or Independent Living Skills services.

**The SW will update the case plan every six months and the guardian(s) will sign it.**

**NOTE:** Relative guardians will not have a case plan because the CWS case will be closed after jurisdiction is terminated and Kin-GAP is in place.

At a minimum, the following items must be included in the Case Plan:

PAGE	PARTICIPANT	CATEGORY/TYPE
Service Objectives	Guardian/Child	Select <b>Other Service Objective</b> type and add to the <b>Additional Description for Participant</b> text box. Include youth's wishes regarding their permanent plan and an assessment of those wishes
Planned Client Services	Guardian	Select <b>Health/CHDP Services</b> category and <b>Provide Medical Consent</b> service type.
Case Mgmt Services	Guardian	Select <b>Case Management Services</b> category and <b>Referrals to Community Resources</b> services type.
Case Mgmt Services	Child	Select <b>Case Management Services</b> . Select <b>SW Plan Contact</b> type. Select <b>Schedule for Service</b> and complete fields for <b>Start date/End date</b> , <b>Occurrences</b> , <b>Frequency</b> and <b>Contact Exceptions</b> .  <b>NOTE:</b> Guardianship cases require face-to-face contact at least once every 6 months, or more frequently if warranted.
Case Mgmt Services	Child	Select <b>Case Management Services</b> category. Select <b>Arrange Visitation Services</b> type if visits with the parent(s) or other family members are being recommended.

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		<p>Select <b>Schedule for Service</b> and complete fields for <b>Start date/End date</b>, <b>Occurrences</b>, <b>Frequency</b> and <b>Contact Exceptions</b> Select <b>Agency Responsibilities for Service</b> text box and add specific information about the visit (see visitation plan).</p> <p><b>Select Agency Responsibilities for Service</b> text box and include following:</p> <ul style="list-style-type: none"><li>• If child has been in care for three years or more, document a description of specialized permanency services used or if not used a statement explaining why decision made not to provide these services.</li></ul>
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**Documenting Well-Child Visits in the HEP**

Health exams and visits must be documented in the Health and Education Passport. Refer to Health and Education Passport PM file for policy and procedures on documenting health visits for children in Guardianship.

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**Alignment with SET**

This policy supports the following SET Values:

- [Value 2](#): **Collaborative Partnerships with Kinship and Resources Families**, through the provision of supportive services, including mental health information and referrals.
  - [Value 3](#): **Helping Children and Youth Achieve Their Full Potential and Develop Lifelong Relationships** by prioritizing safety and permanence, preferably through familial connections.
  - [Value 5](#): **A Strong Working Relationship with the Legal System** through collaboration with legal partners to focus on the child's best interests by identifying the most permanent and least restrictive level of care.
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